

**REMARKS**

The Examiner is thanked for the careful examination of the application.

The Examiner has rejected all of the claims under either section 102 or 103 based upon the Goringe et al '122 reference either alone or in combination with other references.

While the Examiner has done a careful examination, it appears that the Examiner is misreading a key aspect of the Goringe reference. Namely, Goringe does not teach determining either an advantaged or disadvantaged node. Moreover, since Goringe does not teach making a determination of advantaged or disadvantaged nodes, it is impossible for it to teach or even suggest the mere desirability of adjusting or making a change to metrics in response to an advantaged node based upon the determination. This compound shortcoming of Goringe renders all of the prior art rejections based at least in part on Goringe as erred.

Each of the independent claims includes limitations (b) and (c) to the notion of determining an advantaged or disadvantaged node and further making an adjustment to a metric based upon such determination. Each and every element of the claim must be fully considered.

The Applicants believe that once each of the limitations is carefully considered and given due attention, it will be quite clear that the cited references fail to teach at least two key limitations in each of the independent claims.

Since dependent claims as a matter of law must include additional claim limitations, they, too, will not be anticipated or obvious in view of the Goringe reference.

More particularly, independent claim 1 includes the limitations of:

- b) having one of said nodes check to determine if it comprises an advantaged node which may experience heavy network traffic potentially leading to network communications traffic congestion;
- c) having an advantaged node adjust one of the metrics of a plurality of routing pathways through said node entered into a routing table to form an updated routing table; and

The Goringe reference simply does not teach or even suggest the mere desirability of these two limitations. The words "advantaged" and "disadvantaged" do not appear in Goringe. Moreover, these concepts, even in some alternative wording, are NOT present in the paragraphs cited in Goringe, nor are they present in any other part of Goringe.

Goringe, et al, 7,200,122, is concerned with collecting network topology and links cost information at a single point – efficiently. The point and device in which this information is collected is the device of figure 2, the "network topology generator" item 200. The Goringe patent is concerned with efficiently gathering this information, presumably for presentation to a human administrator. See Goringe, Col. 2, lines 21-22:

"The discovery of network topology is not a simple task for network administrators."

The Goringe '122 patent is not concerned with making decisions about how this information should be used or any active control of the network or modification to the routing mechanism of the network. The cited portions of the '122 patent simply do not mention advantaged or disadvantaged nodes. The Goringe invention is simply a passive observer and reporter of the network topology.

Against the above sections of claim 1, the Examiner cites Goringe, et al., 7,200,122, Col. 7, lines 1-7 and states the following:

"if its contains more than one OSPFs than more traffic will go through it therefore it will experience heavy traffic."

The Examiner appears to equate merely having heavy traffic at points in a network with the notion of DETERMINING whether a node is advantaged. This is incorrect. Also it is unclear what the Examiner actually means by "more than one OSPF. This would appear to be a miss-use of the term. Maybe the Examiner means a node with more than one pathway.

The Examiner then goes on to make the compounded error of equating Col. 7, lines 39-57, which merely shows and discusses the method of gathering information of a routing table with the claim limitation of "having an ADVANTAGED node ADJUST one of the metrics..." Again, Goringe is a passive observer/reporter, and it does not make advantaged/disadvantaged determinations, and it does not make adjustments based upon those determinations. When these compounded shortcomings of Goringe are fully

considered, it becomes clear that cited sections of Goringe do not teach the above-displayed limitations of the claim.


Independent claims 5, 9, 13, 17 and 20 each contain limitations labeled (b) and (c), and they all are directed to the same general notions of:

1. (b) determining whether a node is advantaged or disadvantaged;
2. (c) making a change based at least in part upon the advantaged/disadvantaged determination.

All of the rejections in the Office Action assume that Goringe teaches these two notions. The above arguments with respect to limitations (b) and (c) of claim 1 are repeated for the limitations (b) and (c) of each of the independent claims pending in the application. Additionally, all of the other references cited are NOT even cited as teaching these shortcomings of Goringe to teach (b) and (c). Consequently, the cited references fail, as a matter of law, to anticipate and render unpatentable as being obvious, the present invention.

The Applicants believe that when each of the limitations is fully considered and when the Goringe reference is carefully examined, it is clear that the claims are allowable, and early notification of the same would be much appreciated.

Respectfully submitted,

  
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